UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/27
19 March 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Item 5 of the provisional agenda

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Note by the Secretariat

In view of the circumstances described in the previous Note by the Secretariat (E/CN.4/1998/26), the Bureau of the fifty-third session of the Commission on Human Rights decided, at its post-sessional meeting, that the second session of the open-ended working group on structural adjustment programmes and economic, social and cultural rights should be re-scheduled to take place after the fifty-fourth session of the Commission on Human Rights.

GE.98-11120 (E)

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/28
16 February 1998

ENGLISH
Original: ENGLISH/FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Item 6 of the provisional agenda

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Report of the Secretary-General submitted in accordance with Commission resolution 1997/72

Introduction

1. At its fifty-third session, the Commission on Human Rights adopted resolution 1997/72 in which it requested the United Nations High Commissioner for Human Rights to: (a) examine ways and means to provide the Declaration on the Right to Development with a profile commensurate with its importance; and (b) to disseminate resolution 1997/72 to all Governments, intergovernmental organizations, non-governmental organizations, members of treaty bodies and academic institutions, inviting views on ways and means as specified in subparagraph (a) above, including the Declaration's relationship with important human rights instruments, such as those constituting the International Bill of Human Rights.

2. The Commission invited the High Commissioner to continue to consult regularly, on a formal or informal basis, with all States on the follow-up to the Declaration on the Right to Development and to request them to inform her of their efforts to implement the Declaration. The Commission also recommended that activities being organized as part of the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights should, inter alia, project the role and importance of the right to development.

3. In the same resolution, the Commission requested the Secretary-General to submit a report on the implementation of the various provisions of resolution 1997/72 to the Commission at its fifty-fourth session. In accordance with these requests, a note verbale was addressed to Governments, United Nations agencies and programmes, members of treaty bodies, non-governmental organizations and academic institutions on 8 December 1997.

4. As of 31 January, substantive replies had been received from the Governments of India and Switzerland. Such replies were also received from the United Nations Centre for International Crime Prevention, the United Nations Development Programme, the World Food Programme, the International Monetary Fund, the International Telecommunication Union and the World Health Organization, and the non-governmental organizations International Federation Terre des Hommes and International Rehabilitation Council for Torture Victims. Those replies are summarized in the present document.

5. Additionally, replies were received from the United Nations Office of Legal Affairs and the United Nations University; the specialized agencies the Food and Agriculture Organization of the United Nations, the International Labour Organization, the International Maritime Organization and the Universal Postal Union; the intergovernmental organization the Organization for Economic Cooperation and Development and the non-governmental organization the African Commission on Human and People's Rights.

I. REPLIES RECEIVED FROM GOVERNMENTS

A. India

6. It is the view of the Government of India that the adoption of the Declaration on the Right to Development in 1986 provided a concrete framework for the practical realization of the holistic view of civil, political, economic, social and cultural rights contained in the Universal Declaration of Human Rights. The recognition of the right to development as an integral part of all fundamental human rights was one of the major achievements of the World Conference on Human Rights in 1993. The international consensus behind the right to development as reflected in support for resolutions passed by intergovernmental bodies has continued to grow steadily since the adoption of the Vienna Declaration and Programme of Action. Indeed this right is seen as an integral link between the Universal Declaration and the texts adopted at Vienna.

7. As a comprehensive right which incorporates within itself all other rights, the promotion of the right to development can provide one of the most effective means of ensuring the promotion of all rights. India agrees with the Office of the High Commissioner for Human Rights that the right to development has the potential to provide a comprehensive and integrated approach to human rights which the international community has been searching for over five decades, and that it bears all the necessary components to guide the human rights system into the new millennium.

8. The essential message of the Universal Declaration of Human Rights, the Declaration on the Right to Development and the Vienna Declaration and

Programme of Action is the inherent dignity of man - the bedrock of the universality of human rights. However, 50 years after the adoption of the Universal Declaration and five years after Vienna, countless millions have yet to realize their right to live with dignity as they do not have access to the basic necessities intrinsic to the right to life such as food, shelter, clothing, education and health. The failure to progress beyond rhetoric on the right to development represents the biggest shortcoming on the part of the international community in the five years since the adoption of the Vienna Declaration and Programme of Action.

9. The Government of India would like to submit the following suggestions to the international community in relation to the promotion, protection and implementation of the right to development.

10. The international community originally set out to draft a Bill of Rights. However, it was subsequently decided that the Universal Declaration of Human Rights should be drafted first. This was then followed by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The International Bill of Rights, which currently includes the Universal Declaration of Human Rights, the two International Covenants and the Optional Protocols to the International Covenant on Civil and Political Rights, has not been created by any specific legislative mandate of the General Assembly or the Commission on Human Rights. Rather, it has developed through practice and precedent set by the Secretariat.

11. The Declaration on the Right to Development was adopted by the General Assembly in 1986. The right to development, as established in the Declaration, was subsequently recognized by the entire international community as a universal and inalienable right and an integral part of fundamental human rights through the Vienna Declaration and Programme of Action. There are very few other instruments on human rights which enjoy as much support as the Declaration on the Right to Development.

12. It is therefore the view of the Government of India that the Commission on Human Rights should recommend to the General Assembly, through the Economic and Social Council, that a decision be taken to include the Declaration on the Right to Development in the International Bill of Rights as part of the activities commemorating the fiftieth anniversary of the Universal Declaration of Human Rights in 1998. This would provide the Declaration with a profile commensurate with its importance.

13. There is today an urgent need to infuse new thinking into the right to development and to initiate comprehensive studies and discussions on the subject. In this context, India would like to propose that the Secretary-General consider appointing an independent expert to present a comprehensive study on the subject.

14. The Commission on Human Rights could also consider establishing a working group comprising all Member States to annually discuss and evaluate progress in the realization of the right to development.

15. There is an urgent need to raise awareness of the Declaration on the Right to Development. The Office of the High Commissioner for Human Rights should undertake translation, printing and wide dissemination of the Declaration in all major languages. Regional seminars could also be organized on effective realization of the right to development as part of the fiftieth anniversary celebrations of the Universal Declaration of Human Rights. Subsequently, a global seminar could also be considered.

16. Finally, the High Commissioner should draw upon the results of the recent United Nations conferences and the expertise of the Funds, Programmes and specialized agencies of the United Nations system in the field of development in exploring ways and means to provide the Declaration with a profile commensurate with its importance.

B. Switzerland

17. As to the means of securing for the Declaration on the Right to Development a place befitting its importance, the Government of Switzerland would first of all like to point out that it is vital to incorporate its principles into the national policies of the States concerned, as well as into the development policies of the industrialized nations. In recent years, particularly through its cooperation in development, Switzerland has strengthened its support for tangible measures to promote all human rights (civil, cultural, economic, political and social) in its partner countries; as a result, Switzerland now has relevant guidelines for action that are an integral part of its overall policy and practice in the field of cooperation.

18. Nevertheless, while it is desirable to ensure for the Declaration its rightful place and the broadest possible dissemination, it is of fundamental importance to give it practical effect. The more its principles are applied, the more it will be observed. Consequently, the best means of assuring the Declaration of a place in the political commitments made by States in respect of human rights protection is to see to its gradual implementation.

19. In order to facilitate its implementation, certain controversial points, such as the very concept of the right to development, need to be clarified. The task assigned to the Intergovernmental Group of Experts on the Right to Development is therefore vitally important. Despite many years of discussion and debate, there is still uncertainty over the Declaration's content. For example, should this right be envisaged in community or individual terms, and is it possible to strike a satisfactory balance? The only certainty is that "the human person is the central subject of development" (part I, paragraph 10, of the Vienna Declaration of the World Conference on Human Rights, June 1993).

20. In the words of the Secretary-General of the United Nations, "the right to development is the measure of the respect of all other human rights". Moreover, "democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing" (part I, paragraph 8, of the Vienna Declaration). Development thus makes a significant contribution to the realization of human rights, and vice-versa, respect for human rights is

one of the essential prerequisites for the development process. In this context, it is vital to stress, as does the Vienna Declaration, that "the lack of development may not be invoked to justify the abridgement of internationally recognized human rights" (part I, paragraph 10).

21. The results of the most recent world conferences - Cairo (population) in 1994, Copenhagen (social summit) and Beijing (women) in 1995 and Istanbul (Habitat) in 1996 - have demonstrated that some of the foundations of a new concept of development are now more firmly established. The importance of people-oriented development likely to improve the welfare of one and all, while securing full respect for human rights as a whole, is a feature of all the declarations and programmes of action resulting from these conferences and reveals that a consensus on these essential concepts is taking shape. The effective implementation of the decisions taken at these conferences is also crucial to the realization of the right to development.

22. As development is closely linked to international trade and to the policy of the international trade and development agencies, the respective agencies (for example, the World Bank, the International Monetary Fund, the World Trade Organization and the regional development banks) should be included in the discussions and debates on the right to development. In addition, enhanced cooperation between the Office of the United Nations High Commissioner for Human Rights and the International Labour Organization, whose standards express in tangible form certain economic and social rights that are crucial to development in numerous spheres, is also desirable. Recognition of the Declaration also depends on enhanced coordination between all the human rights bodies (including the United Nations Development Programme).

23. To conclude, Switzerland would like the Intergovernmental Group of Experts on the Right to Development, whose mandate is to identify obstacles to the implementation and realization of the right to development and to recommend ways and means towards the realization of the right to development by all States, to continue its work. Switzerland also calls for greater efforts to implement the principles of the Declaration in order to secure greater recognition for it.

II. COMMENTS FROM UNITED NATIONS BODIES AND SPECIALIZED AGENCIES

A. Centre for International Crime Prevention

24. The Centre for International Crime Prevention informed the High Commissioner that the Crime Programme has been dealing with the relationship between crime and development for a long time. It recalled that the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New Economic Order, adopted at the Seventh United Nations Congress for the Prevention of Crime and the Treatment of Offenders (Milan, 26 August - 6 September 1985), constituted a landmark in this regard. This approach has evolved and, in its Recommendations on the four substantive topics of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Cairo, 29 April - 8 May 1995), the Congress, inter alia, expressed concern about the economic situation in developing countries and its negative impact on social conditions. It took note of the important processes of democratization, strengthening the rule of law and

increasing transparency in States, and recommended that the international community should support such efforts as part of its contribution to sustainable development. It referred to the Vienna Declaration and Programme of Action and recognized the central role of the administration of justice in the promotion and protection of human rights. To this end, the Congress adopted resolution 6 entitled "Criminal justice management in the context of accountability of public administration and sustainable development".

25. The focus of the work of the Commission on Crime Prevention and Criminal Justice and of this programme as a whole is on dealing with national and transnational crime problems in the developmental context, promoting the rule of law, the observance of human rights and the protection of victims of crime and abuse of power (General Assembly resolution 40/34). The Centre for International Crime Prevention added that, in view of the concerns it shares with the Office of the High Commissioner for Human Rights, it is important that human rights resolutions and reports, such as those on the rule of law and on human rights in the administration of justice, as well as initiatives taken under the human rights advisory programme, acknowledge and draw upon the expertise and contributions of the crime programme.

B. United Nations Development Programme

26. UNDP informed the High Commissioner that its work was linked to human rights through the existing international legal framework within which all United Nations agencies operate and through the concept of sustainable human development in which concern for all human rights, including the right to development, is an integral part. UNDP will, in the light of the fiftieth anniversary of the Universal Declaration of Human Rights, initiate activities to highlight the event and focus further on human rights in its programmes.

27. UNDP's policy paper entitled "Human Rights and Sustainable Human Development" gives an outline for UNDP taking more proactive steps towards explicitly addressing the issue of human rights. The paper expresses UNDP's commitment to human rights approaches at three different levels. First, UNDP's mandate for the eradication of poverty is seen as fostering work for the full implementation of the right to development. Second, UNDP's paradigm of sustainable human development places people at the centre of all development activities and aims at creating an enabling environment in which human beings can live secure and creative lives, and hence will promote all human rights. Third, an increasing part of UNDP's programming activities are aimed at the achievement of good governance, including the promotion of civil and political rights in particular.

28. The connection between human rights and sustainable human development is explained in the policy paper as follows. Sustainable human development aims at expanding the choices for all people - women, men and children, present and future generations - while protecting the natural systems on which all life depends. Sustainable human development is human-centred, moving away from a narrow, economy-centred approach to development, placing people at the core of development and viewing human beings as both means and end of development. The central purpose of sustainable human development is to create an environment in which all human beings lead secure and creative lives. Sustainable human development, thus, is directed towards eliminating poverty,

promoting human dignity and rights and equitable opportunities for all through good governance, thereby promoting the realization of all human rights, economic, social, cultural, civil and political. This is of particular relevance in the context of globalization with its threat to exclude weak members of the international community and people with limited resources. The promotion of human rights can offer an ultimate protection against the marginalization process of globalization.

29. Human rights and sustainable human development are both human-centred. They are also interdependent and mutually reinforcing. Development efforts are unsustainable where the rule of law and equity do not exist; where ethnic, religious or sexual discrimination is rampant; where there are restrictions on free speech, association and the media; or where large numbers of people continue to live in conditions of abject and degrading poverty. Similarly, human rights are greatly enhanced when gender equity or poverty reduction programmes empower people to become aware of and claim their rights. Both sustainable human development and human rights will be undone in a repressive environment where threat or disease prevails; and each will be better able to promote human choices in a peaceful democratic society.

30. A critical dimension of the Universal Declaration of Human Rights is its linking of rights with responsibilities. It is the responsibility of every individual and every organ of society to promote respect for human rights and to secure their universal recognition and observance. All human beings should act towards one another in a spirit of brotherhood. Article 29 states that "everyone has duties to the community in which alone the free and full development of his personality is possible". These concepts from the Universal Declaration are important in the context of sustainable human development; social capital is a critical factor for development.

31. The Declaration on the Right to Development states in particular that development itself is a human right, thereby joining, ipso facto, a human rights dimension to development. The Vienna Declaration and Programme of Action further strengthens the Declaration on the Right to Development and proclaims the right to development an inalienable human right and an integral part of fundamental human freedoms. This has been confirmed at the World Conference on Population and Development (Cairo), the Fourth World Conference on Women (Beijing) and the World Summit for Social Development (Copenhagen).

32. That human rights and sustainable human development are inextricably linked, complementary and multidimensional is perhaps nowhere better summarized than by the Working Group on the Right to Development which stated at its fifth session that the right to development is multidimensional, integrated, dynamic and progressive. Its realization involves the full observance of economic, social, cultural, civil and political rights. It further embraces the different concepts of development of all development sectors, namely sustainable development, human development and the concept of indivisibility, interdependence and universality of all human rights. Realization of the right to development is the responsibility of all actors in development, within the international community, within States at both the national and international levels, within the agencies of the United Nations

system. Of crucial significance among the fundamental human freedoms is the freedom from want - the freedom from poverty. Poverty itself constitutes a human rights violation, and freedom from poverty is an integral and inalienable human right.

33. UNDP's four critical sustainable human development programming areas - eliminating poverty and sustaining livelihoods, promoting the advancement of women, protecting and regenerating the environment, and developing the capacities for good governance - all have dimensions pivotal to human rights. Each of these areas will greatly benefit from a more explicit human rights approach.

34. A memorandum of understanding between the Office of the High Commissioner for Human Rights and UNDP has been developed and is expected to be ready for signature in early 1998. The memorandum of understanding gives an outline for a strengthened and closer collaboration between the agencies on human rights issues both at the global and the field level. It includes commitment to initiate new in-country programmes focusing on human rights.

35. The UNDP programme on Human Rights Strengthening (HURIS) is a programme in the general framework of the policy paper on human rights and sustainable human development. It intends to assist countries in building and strengthening their capacities, governmental as well as non-governmental, to protect and promote human rights. It further aims at integrating human rights concerns in broader governance programmes. It will be implemented in close collaboration with the Office of the High Commissioner for Human Rights. The programme is expected to be initiated in the second quarter of 1998.

C. World Food Programme

36. WFP informed the High Commissioner about the implementation of the right to food as a key prerequisite for the exercise of the right to development. WFP articulates the view that allowing hunger to continue impairs human growth and constrains development, including the achievement of household food security. The damage caused by hunger must be seen as both longer lasting and farther reaching than the individuals and families involved. WFP, as part of its public information and advocacy efforts, regularly conveys the view that society as a whole suffers when children cannot learn, when poor health restricts productivity, when hungry women give birth to a new generation that is hungry. Food aid is a key instrument that can help remove the hunger which impedes human development.

37. In support of the call by the Commission on Human Rights for a gender perspective in the implementation of the right to development, WFP consistently takes into account in the design of its food aid programmes and interventions the fact that hunger and poverty affect women disproportionately. Women are a key part of the solution to hunger, in that they shoulder a major share of the responsibility for household food security. Experience has shown that resources in the hands of women have a greater nutritional benefit on children. Based on the fundamental premise that strengthening opportunities for women is the key to the solution of the problems of hunger and poverty, the commitments concerning women undertaken at the Fourth World Conference on Women in Beijing have been translated into

specific action plans at WFP headquarters and at the country office level. These action plans, which include programme-wide training to mainstream the gender focus, promote the equal status of women and improve the condition of women through:

(a) Providing direct access to appropriate and adequate food to women;

(b) Taking measures to ensure women's equal access to and full participation in power structures and decision-making;

(c) Facilitating women's equal access to resources, employment, markets and trade.

38. WFP would furthermore like to draw the attention of the Commission on Human Rights to a recent WFP publication entitled "The Hunger Trap", which further develops some of the above-mentioned themes and reflects WFP's commitment to removing hunger as a constraint to human development.

D. International Monetary Fund

39. The IMF informed the High Commissioner about the organization's difficulties in commenting on the Declaration on the Right to Development owing to its mandate which lies primarily in the area of macroeconomic surveillance. While acknowledging the indivisible and equal importance of all rights, the IMF suggested to the High Commissioner to select issues that might involve a mutual bridge with organizations that also dealt with aspects of the right to development. A concentration on selected issues using "bridges" might raise the profile of the whole spectrum of the right to development. In addition, the IMF suggested to the High Commissioner to initiate a modest public relations campaign informing the public on the right to development.

E. International Telecommunication Union

40. ITU informed the High Commissioner for Human Rights about the importance and role of information technology in today's rapid changing environment and its impact on society, bearing in mind the concept of the right to development as a major driving force.

41. The ITU would consider it interesting to link the Declaration on the Right to Development to the project on universal access to basic communication of the Administrative Committee on Coordination. Economic investment will not flow to regions with an inadequate telecommunications infrastructure. Economic and social equality can only be truly achieved if all can communicate globally. Knowledge and information are at the heart of the intensifying globalization trends, and will increasingly affect the international division of labour.

F. World Health Organization

42. WHO informed the High Commissioner that it has always accorded particular importance to ensuring that every human being is able to enjoy the fundamental right to the highest attainable standard of health as a central element of the development process. In particular, the WHO Task Force on

Health in Development has sought to promote the centrality of health in development and ensure a better understanding of the crucial contribution that health makes to all processes of development. While people's health and well-being are the ultimate aim of social and economic development, the capacity to develop is itself dependent on health.

43. On the basis of this and WHO's efforts to promote health as a human right, WHO is more than ever working to move the human rights debate forward as witnessed by its policy documents. In particular, the draft policy document "Health for All in the 21st Century" recalls the growing convergence of opinion that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing and that the central goals of development include the eradication of poverty, the fulfilment of the basic needs of people and the protection of human rights.

III. COMMENTS RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS

A. International Federation Terre des Hommes

44. The International Federation Terre des Hommes informed the High Commissioner that, in order to provide the Declaration on the Right to Development with a profile commensurate with its importance, relevant human rights bodies should seek to make it known to economic decision makers and to establish an active dialogue with them, including Ministers of Economy and Social Affairs, the International Monetary Fund, the World Bank, the World Trade Organization, the private sector and other relevant institutions. It also indicated that experience concerning micro-credit could also be of great help.

B. International Rehabilitation Council for Torture Victims

45. The IRCT informed the High Commissioner that it believed that torture hinders the individual from partaking in - and benefiting from - a society undergoing a process of democratization, and that torture hinders the existence and development of democracy. It expressed the opinion that respecting freedom from torture is a prerequisite for any democracy and thus for any development activity, and added that it believed that successful legal, socio-economic and medical rehabilitation services are necessary as they allow a victim of torture to regain the ability to participate actively in the democratization process of his or her country.

IV. INFORMAL BRIEFING WITH GOVERNMENTS

46. On 17 December 1997, the High Commissioner for Human Rights addressed the Second Committee of the General Assembly. In an informal setting, the High Commissioner briefed the Committee on the historical background, the multidimensional character and possible future action by her Office in respect of the right to development. A note on the right to development was circulated by the High Commissioner.

47. The High Commissioner underlined that democracy, development and respect for human rights were interdependent and mutually reinforcing; that development was more than just economic growth and that the right to

development was the measure of the respect of all other human rights. The Office of the High Commissioner for Human Rights would in future increasingly focus on substantial involvement in inter-agency forums; on assisting in clarifying the universal minimum core contents of economic, social and cultural rights; and on an increased cross-sectoral profile.

V. FIFTIETH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

48. For the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights in 1998, numerous panels are scheduled to take place within the United Nations system that will touch upon elements of the Declaration on the Right to Development. The Food and Agriculture Organization of the United Nations will host a panel on the right to food; the Economic Commission for Europe will host a panel on economic and social rights in countries in transition; the Economic Commission for Latin America and the Caribbean will host a panel on economic, social and cultural rights and the right to development whilst the United Nations Conference on Trade and Development will host a panel on economic growth, income distribution and human rights.